

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DOMINIC OMARI NORMAN,

Defendant-Appellant.

UNPUBLISHED

May 6, 2008

No. 277990

Wayne Circuit Court

LC No. 06-014173-01

Before: White, P.J., and Hoekstra and Smolenski, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of armed robbery, MCL 750.529; assault with intent to do great bodily harm less than murder, MCL 750.84; possession of a firearm during the commission of a felony, MCL 750.227b; and felon in possession of a firearm, MCL 750.224f. Defendant was sentenced to 25 to 50 years' imprisonment for the armed robbery charge, five to ten years' imprisonment for the assault charge, two to five years' imprisonment for the felon in possession of a firearm charge, all to run concurrently, and two years' imprisonment for felony firearm, to run consecutively to the other sentences. We affirm.

Defendant's sole argument on appeal is that there was insufficient evidence to convict him of armed robbery. We disagree.

For a sufficiency of the evidence challenge, this Court reviews the evidence in the light most favorable to the prosecution to decide whether a jury could find that the elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

"The elements of armed robbery are: (1) an assault, (2) a felonious taking of property from the victim's presence or person, (3) while the defendant is armed with a weapon described in the statute." *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999) (quotation omitted).

Defendant does not dispute that, after the victim, David Tucker, defendant and another passenger left the after-hours club parking lot to take defendant home, someone assaulted Tucker. Defendant argues, however, that there was insufficient evidence of a robbery. Defendant alternatively argues that, if Tucker were robbed, defendant did not do it because Tucker had already dropped defendant off at his home before the robbery and shooting occurred.

There was sufficient evidence presented at trial to enable the jury to find that the elements of armed robbery were proven beyond a reasonable doubt. Tucker's testimony indicated that defendant asked him how much money he possessed and demanded that Tucker give defendant his money; upon Tucker's refusal, he saw, heard, and felt defendant shoot him multiple times. Tucker further testified that, after he attempted to get out of the van and fell to the ground, defendant approached him and placed the gun to his head, demanded Tucker's money, and stated he was going to kill Tucker, at which point Tucker gave him the money. The evidence reflected that Tucker was bleeding, and he thought he might die from his injuries while he waited for an ambulance. He was afraid defendant was going to kill him. A reasonable inference can be drawn that, in comparison to losing his life, it was an understandable and reasonable oversight that he did not mention the small amount of money taken from him in his telephone call to 911. Moreover, there was consistent testimony from Tucker and other witnesses that Tucker knew who the perpetrator was, but could not remember his name. He provided an accurate physical description and location information. The investigating officer also came up with defendant's name through his independent investigation. Tucker rejected several photographs that were presented to him, but immediately recognized defendant's photograph as the person who shot and robbed him. Defendant's testimony alone, if believed by the jury, was sufficient to sustain the conviction. *People v Richards*, 76 Mich App 695, 698; 256 NW2d 793 (1977). Moreover, this Court is "required to draw all reasonable inferences and make credibility choices in support of the jury verdict." *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). And the prosecution is not required to disprove all possible theories of innocence; "it need only convince the jury 'in the face of whatever contradictory evidence the defendant may provide.'" *Id.*, quoting *People v Konrad*, 449 Mich 263 n 6; 536 NW2d 517 (1995). The jury chose to believe Tucker's testimony over the defendant's version of the events, and it is their prerogative to do so. *Wolfe, supra* at 514-515.

Affirmed.

/s/ Helene N. White

/s/ Joel P. Hoekstra

/s/ Michael R. Smolenski